

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 2244 of 1999

- Smt. Surekha Bai, W/o- Rajaram Sahis, Aged about- 19 years, R/o- Village- Jhara, Tahsil- Mahasamund, District- Raipur (C.G.)

---- Appellant

Versus

- Rajaram, S/o- Vishram Sahis, Aged about- 21 years, R/o- Parsada, P.S.- Mahasamund, District- Raipur (C.G.)

---- Respondent

For Appellant : Shri Alok Dewangan, Advocate.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

22/10/2019

1. Heard on application for grant of leave to appeal filed under Section 378(4) of the Code of Criminal Procedure, 1973.
2. This appeal is preferred against the order dated 18th February, 1998 passed by Additional Chief Judicial Magistrate, Mahasamund, District- Raipur (C.G.) in Criminal Case No. 962/1997 wherein the said Court acquitted the respondent for charge under Section 506 Part-I of IPC, 1860.
3. The petitioner side examined Surekha Bai (PW-1), Munna (PW-2) to establish the charge. Surekha Bai (PW-1) deposed that appellant threatened to kill her and Munna (PW-2) deposed on same line.
4. The question for consideration of this Court is whether the words uttered by the respondent falls mischief under Section 506 Part-I of IPC, 1860. To substantiate the charge the complainant side is under obligation to establish that the respondent was determined to execute his threat on the spot. It is clear from the evidence

that appellant was not having any weapon and his words are the subject matter of crime. It is not the case that respondent tried to execute his threat on the spot, therefore, any word uttered by him is mere fury which has sound, but no substance. In absence of substance of commission of offence charge under Section 506 Part-I is not established that is why trial Court recorded finding of acquittal. Finding of the trial Court is one of the plausible view. It is settled law that if two views are possible, the view which is favourable to the respondent/accused should be accepted, therefore, this Court has no reason to record contrary finding regarding commission of offence. It is not a case where respondent should be called for hearing again for full consideration of this petition.

5. Accordingly, the criminal appeal stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge